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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAR 13 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Telephone Company-Cable)
Television Cross-Ownership)
Rules, Sections 63.54-63.58)

and)

Amendments of Parts 32, 36, 61,)
64, and 69 of the Commission's)
Rules to Establish and Implement)
Regulatory Procedures for)
Video Dialtone Service)

CC Docket No. 87-266

RM-8221

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Response of Bell Atlantic¹ to Notice of Inquiry

In its order on reconsideration of the video dialtone rules, the Commission requested information from each of the Bell Operating Companies and GTE concerning the "types of customer proprietary network information ('CPNI') to which it anticipates having access as a provider of video dialtone service."² The Commission sought such information to determine whether amendments to existing CPNI rules are warranted due to competitive equity or privacy concerns, particularly if network providers have access to information about the content of customer communications.³

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc., Bell Atlantic-Maryland, Inc., Bell Atlantic-New Jersey, Inc., Bell Atlantic-Pennsylvania, Inc., Bell Atlantic-Virginia, Inc., Bell Atlantic-Washington, D.C., Inc. and Bell Atlantic-West Virginia, Inc.

² Telephone Company-Cable Television Cross-Ownership Rules Section 63.54-63.58, 10 FCC Rcd 244, ¶ 244 (1994) ("Reconsideration Order").

³ Id. at ¶ 243.

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Bell Atlantic's network design will not provide network access to the particular content of an individual subscriber's viewing sessions. Our network data will only show that a particular subscriber has been connected to a particular video information provider's service (including, for broadcast service, the channel number of the service), and the date, time and duration of the connection. When pointcast service becomes available, the network will also track the amount of bandwidth utilized in a given interactive session.

Such data would not, however, reveal the content of the end user subscriber's programming or information selection. For example, the network data would not reveal that the viewer was watching a particular adult movie or ordering particular merchandise through a home shopping service. Such information would be known only to the video information provider who provided the particular content or service to the end user subscriber.

The Commission has also asked how video dialtone providers "plan to use such information in marketing video dialtone service to programmers or consumers."⁴ In order to market their services to consumers, programmer-customers will need to know on an ongoing basis which premises can be served by Bell Atlantic's video dialtone networks.⁵ As it builds out its networks, Bell Atlantic will, therefore, make available to its programmer-customers a list

⁴ Id. at ¶ 244.

⁵ Similarly, at divestiture, the local exchange companies provided certain subscriber information to interexchange carriers to permit them to market their services to end users.

of addresses of premises to which the network can deliver video dialtone service and may also provide the names and telephone numbers of such potential subscribers.⁶

In the future, Bell Atlantic also might make available to its affiliated and unaffiliated programmer-customers, on a nondiscriminatory basis, aggregate video dialtone information.⁷ Disclosure of such aggregate information should not raise any privacy concerns, because it does not permit identification of any individual subscriber's viewing habits. Nor should it raise any competitive equity issues because all programmer-customers could obtain such information on the same terms and conditions.

Bell Atlantic takes very seriously protection of its customers' privacy rights and service information. In addition to meeting the statutory mandate to establish Do Not Call lists, Bell Atlantic maintains and honors lists of customers who have asked not to be called for surveys and those who have requested that they not receive mail solicitations. Moreover, Bell Atlantic employees are briefed at least annually on Bell Atlantic's privacy guidelines, failure to follow which may result in disciplinary action, up to and including dismissal.

⁶ Information concerning what premises have access to video dialtone service would not constitute CPNI because such information is not part of Bell Atlantic's customer service or billing records. It is merely general information concerning Bell Atlantic's service area. Bell Atlantic would not, however, disclose non-listed or non-published telephone numbers to programmer-customers.

⁷ Such aggregate information could include, for example, the total number of minutes of viewing by subscribers during prime time as opposed to daytime hours.

Bell Atlantic urges the Commission not to undertake any further proceedings aimed at creating video dialtone-specific CPNI rules to address privacy concerns. The existing CPNI rules already adequately protect the privacy of customers with regard to marketing of enhanced services and customer premises equipment.⁸ Moreover, the CPNI rules apply only to a limited number of service providers and service offerings. Because privacy concerns are not limited to only those companies to whom the CPNI rules apply, extension of those rules to place additional burdens on telephone company provision of video service -- a highly competitive industry -- will harm competition without addressing those concerns.

Instead of speculating now on possible problems that could arise in the future, the Commission should instead permit the fledgling video dialtone industry to provide service that is responsive to the market's demands, unhampered by new unduly burdensome restrictions not applicable to competitors. In an increasingly competitive marketplace, consumers' requirements for privacy protection will prompt voluntary industry action of the type to which Bell Atlantic is committed. Only if such voluntary efforts prove unsuccessful should the Commission consider narrowly targeted regulation to address specific problems that actually occur.

⁸ In particular, those existing rules prohibit disclosure of CPNI to unaffiliated enhanced service providers absent prior authorization from the customer. See 47 C.F.R. § 64.702(d)(3).

Conclusion

The Commission should not initiate any further video dialtone-specific proceedings with regard to the CPNI rules.

Respectfully submitted,

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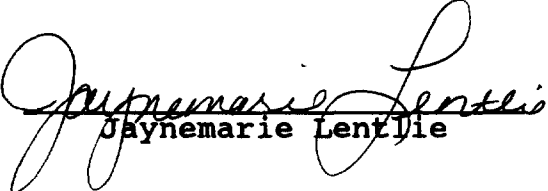
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Response of Bell Atlantic to Notice of Inquiry" was served this 13th day of March, 1995 by first class mail, postage prepaid, on the parties on the attached list.


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